

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL WRIT PETITION NO.1549 OF 2005
ALONG WITH
CRIMINAL WRIT PETITION NO.1550 OF 2005**

Maruti Sahebrao Bhapkar & ors.

...Petitioners.
(in both Petitions)

Versus.

Dilip Band and others.

... Respondents
(in both Petitions)

Shri Lobo, Petitioner No.2 in person.

Ms.R.M.Gadhavi, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 5th July, 2005.

P.C.:

1. Heard the Petitioner No.2 in person. In Criminal Writ Petition No.1548 of 2005 the challenge is to the order dated 31st May 2005 passed by the learned Judicial Magistrate First Class in private complaint filed by the Petitioners and others. By the said order the learned Magistrate has called for the report under section 202(1) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the said Code) from the concerned Police Station. In Criminal Writ Petition No.1550 of 2005 a the similar order passed by the learned Judicial Magistrate First Class in another complaint filed by the Petitioners is under challenge.

2. The only order passed by the learned Magistrate is

under section 202 of the said Code. The prayer of the Petitioners is that since high ranking personalities are shown as accused in the complaints, the Police may not be able to properly perform the duty of carrying out investigation. Therefore, prayer is made in the above petitions that the order impugned may be modified and the investigation may be ordered to be done by any other person other than the Police.

3. It is very difficult to accept the submission that merely because high ranking persons are shown as accused in the private complaint, the Police will not perform their duty properly. In any event by passing order under section 202 of the Code the learned Magistrate has postponed the issue of process and after report is received under section 202 of the Code, the learned Magistrate is bound to consider the merits of the complaint and pass appropriate orders in accordance with law. No interference is necessary and warranted against the orders impugned. Subject to what is stated above, the writ petitions are dismissed. All questions on merits of the pending complaints are expressly kept open.

Judge.